

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MUSTAFA WILLIS, : Civil Action No.
: 2:12-cv-04067-ES-JAD
Plaintiff, :
:
vs. :
: Newark, New Jersey
CHRISTOPHER GIALANELLA, : Monday, March 23, 2015
et al. : 4:17 p.m.
:
Defendants. :

TRANSCRIPT OF SETTLEMENT CONFERENCE
BEFORE THE HONORABLE JOSEPH A. DICKSON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: Law Office of Nathaniel M. Davis
By: NATHANIEL M. DAVIS, ESQUIRE
40 East Park Street
Newark, NJ 07102

For the Defendants: City of Newark, Department of Law
By: GARY S. LIPSHUTZ, ESQUIRE
920 Broad Street, Room 316
City Hall
Newark, NJ 07102

Transcription Company: KLJ Transcription Service, LLC
P.O. Box 8627
Saddle Brook, NJ 07663
(201)703-1670 - Fax (201)703-5623

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1 (Conference commenced at 4:17 p.m.)

2 THE COURT: All right. This is the matter of Mustafa
3 Willis versus --

4 MR. LIPSHUTZ: Gialanella.

5 THE COURT: -- Gialanella, Docket Number 12-4067.

6 May I have appearances of counsel, please?

7 MR. DAVIS: Nathaniel Davis, friend of the Court,
8 Your Honor. For Mustafa Willis.

9 MR. LIPSHUTZ: Your Honor, Gary Lipshutz, assistant
10 corporation counsel for the city of Newark and the individual
11 defendants, Gialanella, Callender, Maiorano, Hinnant, Montalvo
12 and Volkert.

13 THE COURT: Okay. All right. This matter has been
14 pending for some time now and there have been several
15 settlement conferences. And Mr. Willis is here sitting with
16 Mr. Davis.

17 Now, Mr. Davis, you -- I think you said you are a
18 friend of the Court.

19 MR. DAVIS: Yes, Your Honor.

20 THE COURT: You have not made a notice of appearance
21 in this case?

22 MR. DAVIS: No, Your Honor.

23 THE COURT: Whether or not you're counsel of record,
24 can you represent to the Court that you are representing Mr.
25 Willis?

1 MR. DAVIS: Yes, Your Honor. I am assisting Mr.
2 Willis in settling this. I was retained -- well, not
3 retained, but I was asked by Mr. Willis to help him formulate
4 a settlement with the city of Newark.

5 THE COURT: Okay. And you've advised him in with
6 respect to his rights in this case?

7 MR. DAVIS: Yes, Your Honor. He had previous counsel
8 for a year and they -- I guess they were released from
9 representing him, and he was referred to my office, and I said
10 that I would be limit -- I would limit my rep -- my
11 representation would be limited to only trying to formulate a
12 settlement with the city of Newark.

13 THE COURT: Okay. And have you done so? Have you
14 reached a settlement with the city of Newark?

15 MR. DAVIS: I believe so, Your Honor. The city has
16 offered \$6,000 and I think, reluctantly, although, my has
17 taken -- is -- wanted to take the \$6,000.

18 THE COURT: Okay. Mr. Willis, please stand up, sir.
19 Have you heard what we just talked about, in terms of Mr.
20 Davis's relationship with you?

21 MR. WILLIS: Yes.

22 THE COURT: And do you agree with that? He has been
23 advising you on this, in terms of trying to negotiate a
24 settlement?

25 MR. WILLIS: Yes.

1 THE COURT: All right. And he's telling the Court
2 that Newark has offered \$6,000. I'll ask Newark about that in
3 a minute. Do you understand that, sir?

4 MR. WILLIS: Yes.

5 THE COURT: Have you agreed to take \$6,000 to settle
6 this case?

7 MR. WILLIS: Yes.

8 THE COURT: Mr. Willis, do you understand that once
9 you say yes, and I find that you have -- and I find that
10 you've accepted knowingly and wilfully, that the case is over
11 and you can't come back anymore. Do you understand that, sir?

12 MR. WILLIS: Yes.

13 THE COURT: It appears that you are not happy with
14 the way this has worked out. Is that a fair statement by me?

15 MR. WILLIS: Yes, sir.

16 THE COURT: But do you understand that you don't have
17 to take the settlement today if you don't want to? It's
18 totally up to you, sir. Do you understand that?

19 MR. WILLIS: (Non-verbal response.)

20 THE COURT: You have to verbalize, because we're on
21 tape.

22 MR. WILLIS: Yes. So, --

23 THE COURT: And you've given it due consideration? I
24 mean, it has been a few weeks, but I don't want to rush you.
25 Have you given it enough consideration, after speaking to Mr.

1 Davis, as to whether or not you should accept the \$6,000 as a
2 settlement?

3 MR. WILLIS: Yeah, well, can I take some time to
4 think about it? I will still like to do it, but I -- can I
5 get some -- take some time to think about it?

6 THE COURT: How much time would you like?

7 MR. WILLIS: A week.

8 THE COURT: All right. I want to say this, Mr.
9 Willis.

10 MR. WILLIS: Yes.

11 THE COURT: I want to bend over backwards. The Court
12 wants to make sure that you, at the end of the day, are
13 walking into this settlement with open eyes. I am sure that
14 Mr. Davis wants the same thing and I am sure, actually, that
15 Mr. Lipshutz, on behalf of Newark, wants the same thing.
16 Because once we agree that you're taking the money -- that's
17 if we agree that -- with that -- then it is done. They will
18 write you a check.

19 Let me ask Mr. Lipshutz a question. \$6,000 is on the
20 table; correct, sir?

21 MR. LIPSHUTZ: It is today.

22 THE COURT: Okay.

23 MR. LIPSHUTZ: It may not be tomorrow.

24 THE COURT: Well, I am going to get to that in a
25 minute. Right now you've offered \$6,000.

1 MR. LIPSHUTZ: Payable within 90 days, provided that
2 -- because it's a municipality. It's also as to each and
3 every defendant, as well. That is, the individual defendants.
4 And Mr. Willis has to sign a release.

5 The agreement was \$6,000 today. I can't speak to
6 tomorrow. And, frankly, I -- it's my impression that the
7 money may be off the table tomorrow.

8 We have been here four times on a settlement with --
9 Mr. Davis has been here. I have gone up each time, against my
10 better judgment, with the money that I have offered. But my
11 understanding is, from speaking with the chief of staff who
12 was here, that that \$6,000 was for today. Period. So --

13 MR. DAVIS: Your Honor, I don't know about the four
14 settlement conferences.

15 MR. LIPSHUTZ: Three settlement conferences.

16 MR. DAVIS: I've only been here on -- I was here once
17 before and today.

18 THE COURT: Frankly, it doesn't matter if we've been
19 here three, four or ten times. I mean, with all due respect,
20 Mr. Lipshutz, I have small cases and big cases that have many
21 more settlement conferences than this.

22 MR. LIPSHUTZ: I understand.

23 THE COURT: But that's -- the issue is whether or not
24 Newark is prepared to offer \$6,000 to settle it and whether or
25 not Mr. Willis is prepared to accept it.

1 Mr. Willis? I am going to ask Newark to hold the
2 offer open until Friday. They may say no. They don't have to
3 say yes. Just the way -- the same way that you don't have to
4 accept it, they don't have to offer it. And they don't have
5 to hold it open.

6 So, I'm going to ask the parties to stick around here
7 for 25 more minutes to see if you make a final decision. If
8 you do, fine. If you don't, that's fine. I'm not trying to
9 twist your arm. I just want to make sure you have time, so
10 that when you -- if and when you say yes, it's done.

11 Mr. Lipshutz, I heard what you said. You're well
12 within your rights to argue on behalf of Newark in the way you
13 did and Newark may pull the money off the table. I'm going to
14 certainly think that, because you're in my courtroom, in the
15 courtroom here, that you'll hold it open for 25 more minutes.

16 MR. LIPSHUTZ: Without doubt, Your Honor.

17 THE COURT: And I'm going to ask -- well, you know,
18 I'm not going to ask anything. Let's wait 25 minutes and then
19 I'll tell you what I am going to ask.

20 Yes, Mr. Davis?

21 MR. DAVIS: Your Honor, I have an appointment with a
22 client at 4:30, Your Honor. Do you need -- as a friend of the
23 Court, do you need me to stay? I think that the \$6,000 on the
24 table, if Mr. Willis doesn't want to take it, he can just tell
25 Mr. Lipshutz he doesn't want to take it.

Colloquy

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1 THE COURT: Mr. Davis, call your office and ask them
2 to make your -- to ask your client to wait a few minutes.

3 MR. DAVIS: Okay. No problem.

4 THE COURT: I'd like to try to get this done with
5 your assistance.

6 MR. DAVIS: Yes, Your Honor. No problem.

7 THE COURT: Thank you.

8 MR. DAVIS: All right.

9 THE COURT: Off the record.

10 (Off record from 4:24 p.m. to 4:39 p.m.)

11 THE COURT: All right. We're back on the record in
12 Willis versus Gialanella, Docket Number 12-4067.

13 It has not been quite 25 minutes, but I understand
14 there has been some consultation. Mr. Davis, is your client,
15 Mr. Willis, ready to take the --

16 MR. DAVIS: Yes, he's willing to take the \$6,000,
17 Your Honor.

18 THE COURT: All right. Mr. Willis, please stand up.
19 Is that true? You have thought about it and you're going to
20 take the \$6,000?

21 MR. WILLIS: Yes, sir.

22 THE COURT: Okay. Do you have any questions, Mr.
23 Willis?

24 MR. WILLIS: So, once I said that, how long will it
25 be -- how long will it take me to receive the \$6,000?

1 THE COURT: Mr. Lipshutz says it's going to take
2 about 90 days.

3 MR. WILLIS: Ninety days? Oh.

4 MR. LIPSHUTZ: It's no matter who the plaintiff is or
5 a settlement, no matter what, it always take about 90 days --
6 there has to be paperwork; it's a government entity -- to get
7 the money. If you --

8 THE COURT: They have -- does it have -- all right.
9 Fine.

10 MR. LIPSHUTZ: That's -- I -- he has to sign a
11 release, it has to come back --

12 THE COURT: How long can it -- will it be before you
13 have the release over to Mr. --

14 Mr. Davis, can you stay involved, so the release can
15 go through your office to Mr. Willis?

16 MR. DAVIS: Yes, Your Honor.

17 MR. LIPSHUTZ: I will e-mail the release to Mr. Davis
18 tomorrow.

19 THE COURT: Okay. So you'll go into Mr. Davis's
20 office either tomorrow or the day after, sign the release, and
21 we'll get the process started.

22 MR. LIPSHUTZ: I will also e-mail it directly to Mr.
23 Willis, because I think I have his e-mail as well.

24 THE COURT: Okay. As soon as Mr. Lipshutz has it
25 signed and notarized or a witnessed --

1 MR. LIPSHUTZ: Witnessed.

2 THE COURT: -- witnessed release, he'll put it in and
3 process it.

4 MR. LIPSHUTZ: And it --

5 THE COURT: And hopefully it won't take 90, but it
6 does take time. All these municipal cases I have take time.
7 You've got to go through the process. Okay?

8 MR. LIPSHUTZ: And we agree that it's for all the
9 individual defendants, not just the city of Newark. I want to
10 make sure that that's clear.

11 THE COURT: Correct, Mr. Willis? Everybody is --
12 you're releasing everybody for the \$6,000. The lawsuit and
13 all of the defendants are -- it's dismissed and over; correct?

14 MR. WILLIS: Yes, sir.

15 THE COURT: Anything else?

16 MR. DAVIS: No, Your Honor.

17 MR. LIPSHUTZ: That's it, Your Honor. Thank you.

18 THE COURT: Mr. Davis, have you taken the opportunity
19 to explain to Mr. Willis that it's a full and final release?

20 MR. DAVIS: Yes, Your Honor. There -- he's --
21 there's no coming for the money and that's it. It's a full
22 and final release for all the monies --

23 THE COURT: Of all the defendants, all the thing --
24 all the things that happened in this -- that allegedly
25 happened in this lawsuit.

1 MR. DAVIS: Yes. I'm not sure what happened before I
2 was involved, but -- but, as of right now, this is a full and
3 final settlement of all your claims that --

4 THE COURT: Full and final settlement.

5 MR. DAVIS: -- you made in the complaint.

6 THE COURT: Okay.

7 MR. LIPSHUTZ: Is Your Honor going to dismiss the
8 case today?

9 THE COURT: No, we're going to do a 60-day order.

10 MR. LIPSHUTZ: Okay. So the case will be dismissed --

11 THE COURT: Upon the completion and consummation of
12 the settlement.

13 MR. LIPSHUTZ: Right.

14 THE COURT: Okay?

15 MR. LIPSHUTZ: All right.

16 THE COURT: Anything else?

17 MR. DAVIS: No, Your Honor.

18 THE COURT: All right. Thank you very much.

19 MR. DAVIS: Thank you, Your Honor.

20 MR. WILLIS: Sorry about that, Your Honor.

21 (Conference adjourned at 11:36 a.m.)

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1 C E R T I F I C A T I O N

2 I, TERRY L. DeMARCO, court-approved transcriber,
3 certify that the foregoing is a correct transcript from the
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10 Date

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